



MINUTES OF MEETING HELD DECEMBER 12, 2015 IN CHARLESTON, SC

Presented for Approval of the Uniformity Committee
 WINTER MEETING – MARCH 2, 2016 – SALT LAKE CITY, UTAH

I. Welcome and Introductions

The chair, Wood Miller (Missouri) called the meeting to order at 8:35 AM and asked members and participants to introduce themselves. The following is a list of members and participants:

Holly Coon	Alabama Department of Revenue	Gregory Matson	Multistate Tax Commission
Michael Gamble	Alabama Department of Revenue	Thomas Shimkin	Multistate Tax Commission
Rouen Reynolds	Alabama Department of Revenue	Cathy Felix	Multistate Tax Commission
Christy Vandevender	Alabama Department of Revenue	Dan Keating	Multistate Tax Commission
Joe Garrett	Alabama Department of Revenue	Jeff Silver	Multistate Tax Commission
Deanna Munds-Smith	Arkansas Department of Finance & Administration	John Frasier	New Hampshire Department of Revenue
Erika Hoxeng	Colorado Department of Revenue	Donna Whitcomb	New Hampshire Department of Revenue
Aaishah Hashmi	DC Office of Tax & Revenue	Kathleen Sher	New Hampshire Department of Revenue Administration

*If you would like additional information about this meeting, contact Helen Hecht, General Counsel,
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Richard Jackson	Idaho State Tax Commission	Lennie Collins	North Carolina Department of Revenue North Dakota Office of State Tax Commissioner
Steve Wynn	Idaho State Tax Commission	Matt Peyerl Ryan	North Dakota Office of State Tax Commissioner
Randy Tilley	Idaho State Tax Commission	Rauschenberger	North Dakota Office of State Tax Commissioner
Judy Neal	Iowa Department of Revenue Kansas Department of Revenue	Myles Vosberg	North Dakota Office of State Tax Commissioner
Richard Cram	Kentucky Department of Revenue	Dee Wald	Commissioner
Marcia Oakman	Kentucky Department of Revenue	Gary Humphrey	Oregon Department of Revenue
Don Richardson	Kentucky Department of Revenue Legislative Research Commission	Don Jones	Oregon Department of Revenue
Jennifer Hays	Missouri Department of Revenue	Tyler Wallace	Oregon Department of Revenue
Wood Miller	Montana Department of Revenue	Tommy Hoyt	Texas Comptroller of Public Accounts
Lee Baerlocher	Montana Department of Revenue	Frank Hales	Utah State Tax Commission
Kory Hofland	Montana Department of Revenue	Chris Coffman	Washington Department of Revenue
Mike Kades	Montana Department of Revenue	Drew Shirk	Washington Department of Revenue Wisconsin Department of Revenue
Gene Walborn	Department of Revenue	Julie Christensen	Department of Revenue
Ken Beier	Multistate Tax Commission	Jennifer McLaughlin	Bloomberg BNA
Lila Disque	Multistate Tax Commission	Joe Huddleston	EY LLP
Bruce Fort	Multistate Tax Commission	Karen Boucher	FIST Coalition

Keith Getschel	Multistate Tax Commission	Karl Friedan	Council on State Taxation
Helen Hecht	Multistate Tax Commission		
By Phone:			
Andrew Glancy	West Virginia Department of Revenue	Staff	Michigan Department of Treasury
Carolyn Bishop	Washington Department of Revenue	Scott Fryer	Arkansas Department of Finance & Administration
Jeff Henderson	Oregon Department of Revenue	Anita Connor	Pennsylvania Department of Revenue
Michael Fatale	Massachusetts Department of Revenue		

II. Approval of Minutes of the Prior In-Person Meeting

Chris Coffman (Washington) moved for approval of the minutes. Minutes were approved by voice vote.

III. Initial Public Comment Period

There was no public comment at this point.

IV. Federal Legislative Update

Helen Hecht gave a summary of pending federal legislation and possible action by Congress on the Internet Tax Freedom Act.

V. Sec. 17 Model Market Sourcing Regulations Work Group Report

Michael Fatale (Massachusetts) introduced the project and explained the reasoning behind the structure and rules. Bruce Fort (MTC) presented a memorandum outlining a summary of the issues that were addressed during the Section 17 project, particularly rules designed specifically for transactions between related parties.

Karen Boucher (FIST) stated that the Financial Institutions Tax Coalition objected to the special sourcing rule for professional services sold to related parties; they believe sourcing should be the same whether parties are related or unrelated, unless there is distortion.

Karl Frieden (COST) noted that states and taxing agencies can retroactively go back and audit on reasonable method chosen, whereas taxpayers are not allowed to retroactively amend their method, which creates an uneven playing field.

Taxpayers may prospectively change their method, but only to improve accuracy of assigning receipts. The problem is that "accuracy" is subjective, and the taxpayer should be free to change to another reasonable method. COST also opposes throwout and throwback, because a company's tax liability in one state should not be measured by its tax liability in another state. COST's written comments were made available and were posted on the MTC's website on the project page for the Section 17 project.

Holly Coon (Alabama) moved to approve the workgroup's draft and recommend it be moved on to the Executive Committee for their consideration. The motion passed by show of hands, with 20 in favor and none opposed.

VI. Sec. 1 Model Definition ("Receipts," etc.) Regulations Work Group Report

Jennifer Hays (Kentucky) presented the workgroup's draft, as well as the answers to the questions posed to the work group by the Uniformity Committee during the July meeting.

Ms. Boucher stated it would be helpful if the regulations clarified that the general definition of "receipts" did not interfere with to special industry rules. Mr. Fort proposed adding language to page 23 to the effect that nothing in the definition should be construed to modify, impair, or supersede section IV. 18 "*or regulations promulgated thereunder.*"

Richard Cram (Kansas) moved to accept Mr. Fort's addition of language. The motion passed by a show of hands, with 16 in favor and none opposed.

Lee Baerlocher (Montana) moved to approve the Section 1 language with Mr. Fort's changes incorporated, for consideration by the Executive Committee. The motion passed by show of hands, with 17 in favor and none opposed.

VII. Discussion of Section 18 Related Issues Identified by Sec. 1 and Sec. 17 Work Groups

Ms. Hecht presented a report outlining some of the issues identified by the Section 17 and Section 1 workgroups that should be addressed by a Section 18 project.

Ms. Boucher commented that the financial services industry would like a special rule for security dealers and broker dealers.

Ms. Hays pointed out that a "clean-up" of existing Section 18 regulations would also be appropriate to conform to the updated regulations.

Ms. Coon moved to form a work group to work on the Section 18 regulations. The motion passed by show of hands, with 17 in favor and none opposed.

VIII. Whistleblower Model Act Project Work Group Report

Mr. Cram offered background on the project, and noted that a lack of state interest and participation had hampered the group's progress. He asked the committee whether it chose to continue. Mr. Frieden stated that the original intent of COST in proposing the project was that some the litigation or qui tam model should be opposed as far as taxes are concerned.

Because the Executive Committee had indicated that the Uniformity Committee pursue the project, Dee Wald (North Dakota) moved to recommend to the Executive Committee that they no longer continue the project, and also request that if the Executive Committee wishes that the project proceed, that they assign specific staff to participate and define the scope of the project. The motion passed by show of hands, with 10 in favor, none opposed, and 4 abstaining.

X. Proposed Projects

Ms. Hecht reported on the status of a proposed RAR (Federal Adjustments) Project, which would modify the existing MTC model. The committee accepted the report and did not otherwise act on it.

Mr. Fort gave a presentation regarding federal changes to partnership rules and the possible effect on state taxation. Gene Walborn (Montana) recommended that the MTC get involved with a project since the states are severely behind as far as partnership taxation. Mr. Miller recommended that as a committee they put this as an agenda item and have MTC staff schedule at least one informational call before the March meetings. Mr. Walborn noted that Montana would be happy to help.

XI. Roundtable Discussion

The states discussed current issues in tax policy and litigation. Notably, a number of states are now implementing new sourcing rules, and are looking to the MTC model for guidance.

XII. New Business

There was no new business.

XIII. Adjournment

The meeting adjourned at 3:47 PM on Chris Coffman's motion.